

OCT 04 2016



September 27, 2016

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

California Redwood Company  
Agent for Service of Process CT  
Corporation System  
818 W 7<sup>th</sup> Street, STE 930  
Los Angeles, CA 90017

California Redwood Company  
Current President or CEO  
1301 Fifth Avenue, STE 2700  
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California Redwood Company  
Otto van Emmerik – Operations Manager  
P.O. Box 1089  
Arcata, CA 95518-1089

California Redwood Company  
Rob Legg – Supervisor  
P.O. Box 1089  
Arcata, CA 95518-1089

**RE: NOTICE OF VIOLATIONS AND INTENT TO FILE SUIT UNDER THE FEDERAL WATER POLLUTION CONTROL ACT ("CLEAN WATER ACT") (33 U.S.C. §§ 1251 *et seq.*)**

Dear California Redwood Company ("CRC"):

This firm represents Humboldt Baykeeper, a California non-profit association, in regard to violations of the Clean Water Act ("CWA" or "the Act") occurring at two facilities under your control in or near the unincorporated community of Samoa, California: (1) CRC Samoa Chip Facility, based upon information available to Humboldt Baykeeper, owned and operated by California Redwood Company with waste discharge identification number 1 12I023751; and (2) CRC Samoa Facility based upon information available to Humboldt Baykeeper, owned and operated by California Redwood Company, with waste discharge identification number 1 12I020584 (collectively, the "CRC Facilities"). This letter is being sent to you as the responsible owners, officers, and/or operators of the CRC Facilities. Unless otherwise noted CRC's owners, operators, managers and persons legally responsible for the Facilities, shall hereinafter be collectively referred to as the "Owners/Operators." Humboldt Baykeeper is a non-profit association dedicated to safeguarding coastal resources for the health, enjoyment, and economic strength of the Humboldt Bay community, including the waters into which the Facilities discharge polluted storm water.

The Owners/Operators of the CRC Facilities are in ongoing violation of the substantive and procedural requirements of the CWA, 33 U.S.C. § 1251 *et seq.*;

California's General Industrial Storm Water Permit, National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001 ("General Permit"), Water Quality Order No. 97-03-DWQ ("1997 General Permit"), as superseded by Order No. 2015-0057-DWQ ("2015 General Permit").<sup>1</sup>

The 1997 General Permit was in effect between 1997 and June 30, 2015, and the 2015 General Permit went into effect on July 1, 2015. As will be explained below, the 2015 General Permit includes many of the same fundamental requirements, and implements many of the same statutory requirements, as the 1997 General Permit. Violations of the General Permit constitute ongoing violations for purposes of CWA enforcement. 2015 General Permit, Finding A.6.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects the Owner/Operators of the Facilities to penalties of up to \$37,500 per day, per violation for all violations occurring during the period commencing five years prior to the date of this Notice of Violation and Intent to File Suit. In addition to civil penalties, Humboldt Baykeeper will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) of the Act (33 U.S.C. §§ 1365(a), (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)) permits prevailing parties to recover costs and fees including attorneys' fees.

The CWA requires that sixty (60) days prior to the initiation of a citizen-enforcement action under Section 505(a) of the Act (33 U.S.C. § 1365(a)), a citizen enforcer must give notice of its intent to file suit. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency, and the Chief Administrative Officer of the water pollution control agency for the State in which the violations occur. See 40 C.F.R. 135.2.

As required by the Act, this letter provides statutory notice of the violations that have occurred, and continue to occur, at the Facilities. 40 C.F.R. § 135.3(a). At the expiration of sixty (60) days from the date of this letter, Humboldt Baykeeper intends to file suit under Section 505(a) of the Act (33 U.S.C. § 1365(a)) in federal court against California Redwood Co. for violations of the Act and the General Permit.

## **I. Background**

### **A. The Clean Water Act**

Congress enacted the CWA in 1972 in order to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251.

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<sup>1</sup> The Owner/Operators submitted an NOI for each of the CRC Facilities to comply with the General Permit on or about May 15, 2015.

The Act prohibits the discharge of pollutants into United States waters except as authorized by the statute. 33 U.S.C. § 1311; *San Francisco Baykeeper, Inc. v. Tosco Corp.*, 309 F.3d 1153, 1156 (9th Cir. 2002). The Act is administered largely through the NPDES permit program. 33 U.S.C. § 1342. In 1987, the Act was amended to establish a framework for regulating storm water discharges through the NPDES system. Water Quality Act of 1987, Pub. L. 100-4, § 405, 101 Stat. 7, 69 (1987) (codified at 33 U.S.C. § 1342(p)); *see also Env'tl. Def. Ctr., Inc. v. EPA*, 344 F.3d 832, 840-41 (9th Cir. 2003) (describing the problem of storm water runoff and summarizing the Clean Water Act's permitting scheme). The discharge of pollutants without an NPDES permit, or in violation of a NPDES permit, is illegal. *Ecological Rights Found. v. Pac. Lumber Co.*, 230 F.3d 1141, 1145 (9th Cir. 2000).

Much of the responsibility for administering the NPDES permitting system has been delegated to the states. *See* 33 U.S.C. § 1342(b); *see also* Cal. Water Code § 13370 (expressing California's intent to implement its own NPDES permit program). The CWA authorizes states with approved NPDES permit programs to regulate industrial storm water discharges through individual permits issued to dischargers, as well as through the issuance of a single, statewide general permit applicable to all industrial storm water dischargers. 33 U.S.C. § 1342(b). Pursuant to Section 402 of the Act, the Administrator of EPA has authorized California's State Board to issue individual and general NPDES permits in California. 33 U.S.C. § 1342.

#### **B. California's General Permit for Storm Water Discharges Associated with Industrial Activities**

Between 1997 and June 30, 2015, the General Permit in effect was Order No. 97-03-DWQ, which Humboldt Baykeeper refers to as the "1997 General Permit." On July 1, 2015, pursuant to Order No. 2015-0057-DWQ the General Permit was reissued, including many of the same fundamental terms as the prior permit. For purposes of this notice letter, Humboldt Baykeeper refers to the reissued permit as the "2015 General Permit." The 2015 General Permit rescinded in whole the 1997 General Permit, except for the expired permit's requirement that annual reports be submitted by July 1, 2015, and for purposes of CWA enforcement. 2015 General Permit, Finding A.6.

Facilities discharging, or having the potential to discharge, storm water associated with industrial activities that have not obtained an individual NPDES permit must apply for coverage under the General Permit by filing a Notice of Intent to Comply ("NOI"). 1997 General Permit, Provision E.1; 2015 General Permit, Standard Condition XXI.A. Facilities must file their NOIs before the initiation of industrial operations. *Id.*

Facilities must strictly comply with all of the terms and conditions of the General Permit. A violation of the General Permit is a violation of the CWA.

The General Permit contains three primary and interrelated categories of requirements: (1) discharge prohibitions, receiving water limitations and effluent limitations; (2) Storm Water Pollution Prevention Plan ("SWPPP") requirements; and (3) self-monitoring and reporting requirements.

### **C. The CRC Samoa Chip Facility**

The CRC Samoa Chip Facility is an approximately 16-acre site that is used as a storage and shipping facility for wood chips that are transported overseas, located at 405 Bay Street, Fairhaven, CA 95564 (upon information and belief, within Humboldt County Assessor's Parcel Numbers 401-122-006 and -008). A portion of the site includes the Humboldt Bay shoreline. The CRC Samoa Chip Facility consists of at least the following operational areas:

- Facility entrances, office, scale, lab, transformer, and parking areas;
- Wood chip unloading ramps, and chip stockpile areas;
- Wood chip reclaim area and transfer conveyor to the onsite dock;
- Wood chip transfer from conveyor to blower and through boom into ship;
- The northern truck dump and chip yard;
- The southern truck dump and chip yard;
- Septic tanks and leachfield systems for the restrooms;
- Laboratory used to determine mass and quality of the delivered wood chips;
- Equipment maintenance and cleaning areas; and
- Aboveground storage tank (AST), fueling facility, and washdown area.

Upon information and belief, the CRC Samoa Chip Facility obtains wood chips from lumber mills and large chipping operations located in Northern California. Chips are transported to the CRC Samoa Chip Facility by trucks, and are then dumped and stored in large stockpiles until front-end loaders transfer the chips to a conveyor out to the loading dock, located over Humboldt Bay, where a blower moves the chips onto cargo ship via tower and boom. The main entrance to the facility is from the west and provides access from Bay Street. Trucks, trailers, heavy equipment, employees, and vendors use this main entrance. Operational activities conducted at this facility are sources of a variety of stormwater pollutants, and include, but are not limited to, fueling activities, machinery operations, heavy equipment operations, equipment and machinery maintenance and cleaning, and wood chip transfer and stockpiling activities. Septic tanks and leachfield systems onsite can also lead to stormwater pollution. The CRC Samoa Chip Facility operates 5 days a week, from at least 6:00 a.m. to 6:00 p.m.

The industrial activities of the CRC Samoa Chip Facility fall under Standard Industrial Classification ("SIC") Code 2421 – Sawmills and Planing Mills, General, described in the CRC Samoa Chip Facility SWPPP as storing wood chips produced at a mill or off site.



The CRC Samoa Chip Facility collects and discharges storm water associated with industrial activities pursuant to the General Permit through, at a minimum, the following discharge locations identified in the CRC Samoa Chip Facility SWPPP: Drainage Areas 1, 2, 3, 4, 5 and 6. Sampling locations are situated in Drainage Areas 3 and 4, at SW-1N and SW-1S respectively. These discharges enter Humboldt Bay. Humboldt Bay is a water of the United States within the meaning of the CWA.

The General Permit requires the CRC Samoa Chip Facility to analyze storm water samples for Total Suspended Solids ("TSS"), pH, and Oil and Grease ("O&G"). 1997 General Permit, Section B.5.c.i; 2015 General Permit, Section XI.B.6. Facilities under SIC Code 2421 must also analyze storm water samples for chemical oxygen demand ("COD") and zinc ("Zn"). 1997 General Permit, Tables 1-2; 2015 General Permit Tables 1-2.

#### **D. The CRC Samoa Facility**

The CRC Samoa Facility is an approximately 57.5-acre, primarily used to store logs, with wood chippers occasionally used onsite, located at #1 Jimmy Smith Drive south of the community of Samoa in Humboldt County, CA 95564 (upon information and belief, located within Humboldt County Assessor's parcel numbers 401-112-013, and 401-031-054 and -061). A portion of the site includes the Humboldt Bay shoreline. The CRC Samoa Facility consists of the following operational areas:

- Facility entrance, access road, and parking areas;
- Former office and break room;
- Log deck
- Log storage and chipping yard;
- Dry Kilns and boiler (not operational);
- Septic tank and leachfield
- Fire pump and diesel tank area.

The CRC Samoa Facility is a former sawmill facility, previously in operation for approximately 100 years. Jimmy Smith Drive is the main entrance road into the CRC Samoa Facility which connected to an access road with several entrances into the log storage areas. Log trucks, service trucks and vehicles, and employee vehicles use this access road and truck and vehicle parking is near the chipping operations area. Logs are trucked in and off-loaded using a log loader, and then stored until needed. When needed, the logs are either loaded on log trucks or chipped and transported offsite. The fire water tank, 270-gallon diesel tank, and fire pump have remained operational, and are in use. CRC is the operator of the water tank and pump, with water supplied to the aboveground steel tank by Humboldt Bay Municipal Water District. Operational activities conducted at this facility are sources of a variety of stormwater pollutants, and include, but are not limited to, fueling activities, machinery operations, log chipping, heavy

equipment operations, equipment and machinery maintenance and cleaning, log and wood chip transfer, and stockpiling activities. The CRC Samoa Facility operates 5 days a week, from at least 6:00 a.m. to 6:00 p.m.

The industrial activities of, or at, the CRC Samoa Facility fall under Standard Industrial Classification ("SIC") Code 2411 – Logging, described in the CRC Samoa Facility SWPPP as portable chipping operations and log storage.

The CRC Samoa Facility collects and discharges storm water associated with industrial activities pursuant to the General Permit through at least the following discharge locations identified in the CRC Samoa Facility SWPPP: Drainage Areas 1 and 2. Upon information and belief, the only sampling location, SW-1, is situated in Drainage Area 2. These discharges enter Humboldt Bay. Humboldt Bay is a water of the United States within the meaning of the CWA.

The General Permit requires the SF to analyze storm water samples for TSS, pH, and Oil and Grease. 1997 General Permit, Section B.5.c.i; 2015 General Permit, Section XI.B.6. The CRC Samoa Facility has also sampled Iron ("Fe") and received an Fe exceedance letter from the Regional Board in 2014.

## **II. The CRC Facilities' Violations of the Act and General Permit**

Based on its review of available public documents, Humboldt Baykeeper is informed and believes that CRC is in ongoing violation of both the substantive and procedural requirements of the CWA, and the Individual and General Permits. These violations are ongoing and continuous. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the CWA, CRC is subject to penalties for violations of the Act since September 27, 2011.

Contaminated storm water and non-storm water discharges can and must be controlled for the Humboldt County and North Coastal Basin ecosystem to regain and maintain its health. Information available to Humboldt Baykeeper indicates that certain industrial operations at the CRC Facilities are conducted outdoors without adequate cover or containment to prevent non-storm water and storm water exposure to pollutant sources or direct discharge of pollutants via air deposition into surface waters.

### **A. The CRC Facilities Discharge Storm Water Containing Pollutants in Violation of the General Permit's Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations.**

CRC's storm water sampling results provide conclusive evidence of CRC's failure to comply with the General Permit's discharge prohibitions, receiving water limitations and effluent limitations. Self-monitoring reports under the General Permit are deemed

“conclusive evidence of an exceedance of a permit limitation.” *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

**B. The CRC Facilities Discharge Non-Storm Water Containing Pollutants in Violation of the General Permit’s Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations.**

Information available to Humboldt Baykeeper suggests that the CRC Facilities discharge quantities of unauthorized non-storm water, including but not limited to, water used to wash wood and logs, trucks and other vehicles, in violation of the General Permit’s discharge prohibitions, receiving water limitations and effluent limitations.

**C. The CRC Facilities Aerial Deposition Containing Pollutants Enters Surface Waters Without NPDES Coverage.**

Pollution entering surface waters via air deposition is also recognized as a significant cause of degradation of water quality. Such discharges of pollutants from industrial facilities contribute to the impairment of downstream waters and aquatic dependent wildlife. Information available to Humboldt Baykeeper indicates that outdoor industrial operations at the CRC Facilities create dust and particulate matter from, as examples only, wood chipping, wood chip transfer, and high-volume truck and other vehicle traffic. These activities lack containment or secondary containment, and have been ongoing since at least 2011. This dust and particulate matter migrates to surface waters of Humboldt County.

**D. Applicable Water Quality Standards**

The General Permit requires that storm water discharges and authorized non-storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance. 1997 General Permit, Discharge Prohibition A.2; 2015 General Permit, Discharge Prohibition III.C. The General Permit also prohibits discharges that violate any discharge prohibition contained in the applicable Regional Water Board’s Basin Plan or statewide water quality control plans and policies. 1997 General Permit, Receiving Water Limitation C.2; 2015 General Permit, Discharge Prohibition III.D. Furthermore, storm water discharges and authorized non-storm water discharges shall not adversely impact human health or the environment, and shall not cause or contribute to a violation of any water quality standards in any affected receiving water. 1997 General Permit, Receiving Water Limitations C.1, C.2; 2015 General Permit, Receiving Water Limitations VI.A, VI.B.

Dischargers are also required to prepare and submit documentation to the Regional Board upon determination that storm water discharges are in violation of the General Permit’s Receiving Water Limitations. 1997 General Permit, p. VII; 2015 General Permit, Special Condition XX.B. The documentation must describe changes the



discharger will make to its current storm water best management practices (“BMPs”) in order to prevent or reduce any pollutant in its storm water discharges that is causing or contributing to an exceedance of water quality standards. *Id.*

The California Toxics Rule (“CTR”) is an applicable water quality standard under the Permit, violation of which is a violation of Permit conditions. *Cal. Sportfishing Prot. Alliance v. Chico Scrap Metal, Inc.*, 2015 U.S. Dist. LEXIS 108314, \*21 (E.D. Cal. 2015) CTR establishes numeric receiving water limits for toxic pollutants in California surface waters. 40 C.F.R. § 131.38. The CTR establishes a numeric limit for at least one of the pollutants discharged by the CRC Facilities: Zinc – 0.12 mg/L (maximum concentration).

The *Water Quality Control Plan for the North Coast Region (May 2011)* (“Basin Plan”) also sets forth water quality standards and prohibitions applicable to CRC’s stormwater discharges. The Basin Plan identifies present and potential beneficial uses for Humboldt Bay, including municipal and domestic supply, industrial service supply, navigation, commercial and sport fishing, preservation of rare and endangered species, wildlife habitat, spawning reproduction and/or early development, marine habitat (“MAR”), cold freshwater habitat (“COLD”), estuarine habitat, aquaculture, migration, shellfish harvesting, and contact and non-contact water recreation.

#### **E. Applicable Effluent Limitations**

Dischargers are required to reduce or prevent pollutants in their storm water discharges through implementation of best available technology economically achievable (“BAT”) for toxic and nonconventional pollutants and best conventional pollutant control technology (“BCT”) for conventional pollutants. 1997 General Permit, Effluent Limitation B.3; 2015 General Permit, Effluent Limitation V.A. Conventional pollutants include Total Suspended Solids, Oil & Grease, pH, Biochemical Oxygen Demand and Fecal Coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. 40 C.F.R. §§ 401.15-16.

Under the General Permit, benchmark levels established by the EPA (“EPA benchmarks”) serve as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite BAT and BCT. *Santa Monica Baykeeper v. Kramer Metals*, 619 F.Supp.2d 914, 920, 923 (C.D. Cal 2009); 1997 General Permit, Effluent Limitations B.5-6; 2015 General Permit, Exceedance Response Action XII.A.

The following EPA benchmarks have been established for pollutants discharged by CRC: Total Suspended Solids – 100 mg/L; Chemical Oxygen Demand – 120 mg/L; Zinc – 0.117 mg/L; Iron – 1 mg/L, and pH – 6.0-9.0 SU. However, the Basin Plan stipulates that pH shall not be depressed below 6.5 nor raised above 8.5, and changes in normal ambient pH levels shall not exceed 0.2 units in waters with a designated



marine (MAR) beneficial use, nor 0.5 units within the range specified above in fresh waters designated COLD.

#### **F. The CRC Facilities' Storm Water Sample Results**

The following discharges of pollutants from the CRC Facilities have violated the discharge prohibitions, receiving water limitations, and effluent limitations of the permit. Exceedance letters from the Regional Board to the CRC Facilities dated October 17, 2014 suggest that further testing results will be made available to Humboldt Baykeeper, and additional exceedances will be identified.

##### **i. Discharge of Storm Water Containing pH Levels in Excess of the Applicable EPA Benchmark Value**

Date	Facility	Discharge Point	Parameter	EPA Benchmark	Basin Plan Limits	Result (s.u.)
9/30/2013	Samoa Chip	SW-1S	pH	6.0-9.0	6.5-8.5	5.67
12/3/2015	Samoa	SW-1	pH	6.0-9.0	6.5-8.5	4.0
12/3/2015	Samoa Chip	SW-1N	pH	6.0-9.0	6.5-8.5	3.0
12/3/2015	Samoa Chip	SW-1S	pH	6.0-9.0	6.5-8.5	5.0
1/29/2016	Samoa	SW-1	pH	6.0-9.0	6.5-8.5	3.0
1/29/2016	Samoa Chip	SW-1N	pH	6.0-9.0	6.5-8.5	4.5
1/29/2016	Samoa Chip	SW-1S	pH	6.0-9.0	6.5-8.5	5.0

##### **ii. Discharges of Storm Water With Chemical Oxygen Demand (COD) at Concentrations at or in Excess of Applicable EPA Benchmark Values**

Date	Facility	Discharge Point	Parameter	EPA Benchmark (mg/L)	Result (mg/L)
12/3/2015	Samoa	SW-1	COD	120	1100
12/3/2015	Samoa Chip	SW-1S	COD	120	120
1/29/2016	Samoa Chip	SW-1S	COD	120	120
1/29/2016	Samoa	SW-1	COD	120	190

**iii. Discharges of Storm Water With Total Suspended Solids (TSS) at Concentrations in Excess of Applicable EPA Benchmark Values**

Date	Facility	Discharge Point	Parameter	EPA Benchmark (mg/L)	Result (mg/L)
12/3/2015	Samoa	SW-1	TSS	100	220

**iv. Discharges of Storm Water With Iron (Fe) at Concentrations in Excess of Applicable EPA Benchmark Values**

Date	Facility	Discharge Point	Parameter	EPA Benchmark (mg/L)	Result (mg/L)
2/2/2014	Samoa	Storm Channel Location D2	Fe	1.0	2.8
2/8/2014	Samoa	Storm Channel Location D2	Fe	1.0	1.9

**v. The CRC Facilities' Sample Results Are Evidence of Violations of the General Permit**

The CRC Facilities sample results demonstrate violations of the General Permit's discharge prohibitions, receiving water limitations, and effluent limitations set forth above. Humboldt Baykeeper is informed and believes that CRC has known that its storm water contains pollutants at levels exceeding General Permit standards since at least September 27, 2011.

Humboldt Baykeeper alleges that such violations occur each time storm water discharges from the Facilities. Attachment A hereto, sets forth the specific rain dates on which Humboldt Baykeeper alleges that CRC has discharged storm water containing impermissible levels of TSS, Fe, COD, and pH in violation of the General Permit. 1997 General Permit, Discharge Prohibition A.2, Receiving Water Limitations C.1 and C.2; 2015 General Permit, Discharge Prohibitions III.C and III.D, Receiving Water Limitations VI.A, VI.B.

**G. The Owners/Operators of the CRC Facilities Have Failed to Implement BAT and BCT**

Dischargers must implement BMPs that fulfill the BAT/BCT requirements of the CWA and the General Permit to reduce or prevent discharges of pollutants in their storm water discharges. 1997 General Permit, Effluent Limitation B.3; 2015 General Permit, Effluent Limitation V.A. To meet the BAT/BCT standard, dischargers must implement minimum BMPs and any advanced BMPs set forth in the General Permit's SWPPP Requirements provisions where necessary to reduce or prevent pollutants in discharges. See 1997 General Permit, Sections A.8.a-b; 2015 General Permit, Sections X.H.1-2.

CRC has failed to implement the minimum BMPs at the CRC Facilities required by the General Permit, including: good housekeeping requirements; preventive maintenance requirements; spill and leak prevention and response requirements; material handling and waste management requirements; erosion and sediment controls; employee training and quality assurance; and record keeping. 1997 General Permit, Sections A.8.a(i-x); 2015 General Permit, Sections X.H.1(a-g).

CRC has further failed to implement advanced BMPs at the CRC Facilities necessary to reduce or prevent discharges of pollutants in its storm water sufficient to meet the BAT/BCT standards, including: exposure minimization BMPs; containment and discharge reduction BMPs; treatment control BMPs; or other advanced BMPs necessary to comply with the General Permit's effluent limitations. 1997 General Permit, Section A.8.b; 2015 General Permit, Sections X.H.2.

Each day the Owners/Operators have failed to develop and implement BAT and BCT at the Facilities in violation of the General Permit is a separate and distinct violation of Section 301(a) of the CWA (33 U.S.C. § 1311(a)). The violations described above were at all times in violation of Section A of the 1997 General Permit, and Section X of the 2015 General Permit. Accordingly, the Owners/Operators have been in violation of the BAT and BCT requirements at the Facilities every day since at least September 27, 2011.

**H. The Owners/Operators of the Facilities Have Failed to Develop and Implement an Adequate Storm Water Pollution Plan**

The General Permit requires dischargers to develop and implement a site-specific SWPPP. 1997 General Permit, Section A.1; 2015 General Permit, Section X.A. The SWPPP must include, among other elements: (1) the facility name and contact information; (2) a site map; (3) a list of industrial materials; (4) a description of potential pollution sources; (5) an assessment of potential pollutant sources; (6) minimum BMPs; (7) advanced BMPs, if applicable; (8) a monitoring implementation plan; (9) annual

comprehensive facility compliance evaluation; and (10) the date that the SWPPP was initially prepared and the date of each SWPPP amendment, if applicable. *See id.*

Dischargers must revise their SWPPP whenever necessary and certify and submit via the Regional Board's Storm Water Multiple Application and Report Tracking System ("SMARTS") their SWPPP within 30 days whenever the SWPPP contains significant revisions(s); and, certify and submit via SMARTS for any non-significant revisions not more than once every three (3) months in the reporting year. 2015 General Permit, Section X.B; see also 1997 General permit, Section A.

Humboldt Baykeeper's investigation indicates that CRC has been operating the CRC Facilities with inadequately developed or implemented SWPPPs in violation of General Permit requirements. CRC has failed to evaluate the effectiveness of its BMPs and to revise the CRC Facilities' SWPPPs as necessary, resulting in the CRC Facilities' numerous effluent limitation violations. Further, the Owners/Operators of the CRC Facilities are not sampling at each discharge location identified in the SWPPP, or testing for all required parameters considering the industrial activity and the site.

Each day the Owners/Operators failed to develop and implement an adequate SWPPP is a violation of the General Permit. The SWPPP violations described above were at all times in violation of Section A of the 1997 General Permit, and Section X of the 2015 General Permit. The Owners/Operators have been in violation of these requirements at the Facilities every day since at least September 27, 2011.

### **III. Persons Responsible for the Violations**

Humboldt Baykeeper puts CRC on notice that it is the entity responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, Humboldt Baykeeper puts CRC on formal notice that it intends to include those persons in this action.

### **IV. Name and Address of Noticing Party**

The name, address, and telephone number of the noticing party is as follows:

Jennifer Kalt, Director  
Humboldt Baykeeper  
1385 Eighth Street, Suite 228  
Arcata, CA 95521  
(707) 825 1020  
[www.humboldtbykeeper.org](http://www.humboldtbykeeper.org)



## **V. Counsel**


Humboldt Baykeeper has retained legal counsel to represent it in this matter. Please direct all communications to:

Jason R. Flanders  
Anthony M. Barnes  
AQUA TERRA AERIS LAW GROUP  
828 San Pablo Ave  
Albany, CA 94706  
(415) 326 3173  
amb@atalawgroup.com

## **VI. Conclusion**

Humboldt Baykeeper believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. We intend to file a citizen suit under Section 505(a) of the CWA against California Redwood Co and its agents for the above-referenced violations upon the expiration of the 60-day notice period. If you wish to pursue remedies in the absence of litigation, we suggest that you initiate those discussions within the next twenty (20) days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



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Jason R. Flanders  
Anthony M. Barnes  
ATA Law Group  
Counsel for Humboldt Baykeeper

**SERVICE LIST**

**VIA CERTIFIED MAIL**

Gina McCarthy, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

Alexis Straus, Acting Regional  
Administrator  
U.S. Environmental Protection Agency  
Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

Thomas Howard, Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812

Matthias St John, Executive Officer  
North Coast Regional Water Quality  
Control Board  
5500 Skyline Blvd, Ste A  
Santa Rosa, CA 95403

## EXHIBIT A

Rain Data from EUREKA WEATHER FORECAST OFFICE, WOODLEY ISLAND, CA US

GHCND: USW00024213

9-25-2011 - 9-25-2016

Days with Precipitation over .1

Date	Precipitation (Inches)
9.25.11	.30
10.2.11	.24
10.3.11	.59
10.4.11	1.07
10.5.11	.83
10.6.11	.26
10.9.11	.11
10.10.11	1.06
11.3.11	.40
11.5.11	.25
11.6.11	.48
11.17.11	.22
11.18.11	.63
11.22.11	.36
11.23.11	1.30
12.14.11	.21
12.15.11	.35
12.25.11	.10
12.28.11	.25
12.29.11	.54
12.30.11	.83
1.15.12	.21
1.18.12	.97
1.19.12	2.26
1.20.12	1.80
1.21.12	.39
1.22.12	.35
1.25.12	.96
1.26.12	.34
1.31.12	.31
2.9.12	.17
2.10.12	.35
2.12.12	.18
2.13.12	.32
2.28.12	.81
2.29.12	.41
3.1.12	.61
3.11.12	.46
3.12.12	.38
3.13.12	1.28
3.15.12	1.06
3.16.12	.91

<b>Date</b>	<b>Precipitation (Inches)</b>
3.18.12	.16
3.20.12	.13
3.21.12	.82
3.24.12	.28
3.26.12	.20
3.27.12	.87
3.28.12	.17
3.29.12	2.20
3.30.12	1.05
3.31.12	1.24
4.3.12	.40
4.4.12	.64
4.9.12	.14
4.10.12	.29
4.11.12	.54
4.12.12	1.22
4.16.12	.12
4.18.12	.41
4.26.12	.68
5.3.12	.20
5.4.12	.13
5.24.12	.15
6.3.12	.19
6.4.12	.75
6.5.12	.12
6.22.12	.72
6.26.12	.13
7.17.12	.52
10.15.12	.25
10.16.12	.57
10.21.12	.64
10.22.12	.43
10.23.12	.10
10.26.12	.15
10.31.12	.41
11.8.12	.44
11.9.12	.32
11.16.12	.15
11.17.12	.82
11.20.12	1.28
11.28.12	.59
11.29.12	2.15
11.30.12	.12
12.1.12	1.59
12.2.12	1.29
12.4.12	.43
12.5.12	.19
12.11.12	.42



Date	Precipitation (Inches)
12.16.12	.41
12.17.12	.34
12.18.12	.27
12.20.12	1.62
12.21.12	1.09
12.22.12	1.23
12.23.12	.14
12.25.12	.73
12.26.12	.94
1.5.13	.11
1.9.13	.47
1.10.13	.36
1.11.13	.17
1.23.13	.63
1.25.13	.36
1.26.13	.15
1.27.13	.14
1.29.13	.10
2.6.13	.10
2.7.13	.38
2.19.13	.52
2.22.13	.22
2.27.13	.21
2.28.13	.20
3.5.13	1.04
3.6.13	.75
3.20.13	.55
3.25.13	.11
3.30.13	.26
3.31.13	.16
4.4.13	.83
4.5.13	.14
4.6.13	.33
4.7.13	1.04
5.6.13	.22
5.16.13	.12
5.27.13	.50
6.24.13	.19
9.20.13	.44
9.21.13	.22
9.24.13	.46
9.25.13	.10
9.29.13	1.38
9.30.13	.26
11.2.13	.10
11.12.13	.23

<b>Date</b>	<b>Precipitation (Inches)</b>
11.19.13	.25
11.20.13	.53
12.2.13	.15
12.6.13	.23
1.8.14	.22
1.11.14	.44
1.29.14	.54
2.6.13	.26
2.7.14	.46
2.8.14	.27
2.9.14	.63
2.12.14	.47
2.13.14	.66
2.14.14	1.26
2.15.14	.66
2.18.14	.40
2.26.14	.32
2.27.14	.41
3.3.14	.52
3.5.14	.19
3.9.14	2.58
3.16.14	.18
3.25.14	.61
3.26.14	.33
3.28.14	.95
3.30.14	.10
3.31.14	.41
4.1.14	.26
4.21.14	.28
4.23.14	.23
4.24.14	.26
4.25.14	.17
5.5.14	.25
5.8.14	.10
6.25.14	.28
9.17.14	.38
9.24.14	2.59
9.25.14	.10
10.14.14	.47
10.15.14	.39
10.17.14	.25
10.20.14	.52
10.22.14	.45
10.23.14	.79
10.24.14	.26

<b>Date</b>	<b>Precipitation (Inches)</b>
10.25.14	.66
10.26.14	.10
10.30.14	.44
10.31.14	.29
11.6.14	.22
11.12.14	.10
11.13.14	.12
11.14.14	.33
11.19.14	.46
11.20.14	.57
11.21.14	.75
11.22.14	.22
11.28.13	.30
11.29.14	.76
12.2.14	.13
12.3.14	.29
12.5.14	1.25
12.7.14	.32
12.10.14	1.17
12.11.14	1.27
12.12.14	.42
12.15.14	.21
12.16.14	.34
12.17.14	.42
12.18.14	.40
12.19.14	.31
12.20.14	1.38
12.21.14	.92
12.22.14	.11
12.24.14	.69
12.29.14	.10
1.15.15	.19
1.16.15	.31
1.17.15	.36
1.18.15	.50
2.2.15	.94
2.5.15	1.14
2.6.15	1.60
2.8.15	.31
2.9.15	.50
2.26.15	.24
2.27.15	.23
3.11.15	.12
3.15.15	.54
3.20.15	.21
3.22.15	.95

<b>Date</b>	<b>Precipitation (Inches)</b>
3.23.15	.49
3.24.15	.60
3.27.15	.10
3.31.15	.19
4.5.15	.19
4.6.15	1.66
4.11.15	.10
4.13.15	.44
8.29.15	.36
9.16.15	.21
10.17.15	.13
10.19.15	.10
10.25.15	.10
10.28.15	.65
11.2.15	.20
11.8.15	.25
11.9.15	.24
11.15.15	1.24
11.17.15	.35
11.18.15	.18
11.19.15	.41
11.24.15	1.47
12.2.15	.17
12.3.15	1.26
12.4.15	.22
12.5.15	.14
12.6.15	.14
12.8.15	.15
12.9.15	.93
12.10.15	.79
12.11.15	1.27
12.12.15	.52
12.13.15	2.20
12.17.15	.14
12.18.15	1.97
12.19.15	.12
12.20.15	.34
12.21.15	1.67
12.22.15	.20
12.23.15	.68
12.24.15	.78
12.25.15	.22
12.27.15	.20
12.28.15	.17
12.29.15	.15
1.4.16	.32
1.5.16	.72
1.6.16	.22



<b>Date</b>	<b>Precipitation (Inches)</b>
1.7.16	.24
1.8.16	.31
1.9.16	.68
1.12.16	.82
1.13.16	.73
1.14.16	.74
1.15.16	.16
1.16.16	.20
1.17.16	2.28
1.18.16	.17
1.19.16	.39
1.22.16	1.10
1.23.16	.57
1.24.16	.25
1.28.16	.72
1.29.16	1.20
2.3.16	.34
2.17.16	.49
2.18.16	.79
2.19.16	.77
2.21.16	.12
2.26.16	.25
3.1.16	.16
3.2.16	.37
3.5.16	1.88
3.6.16	.29
3.8.16	.23
3.9.16	.86
3.10.16	.82
3.11.16	.19
3.12.16	.65
3.13.16	.56
3.14.16	.23
3.19.16	.10
3.20.16	.29
3.21.16	.93
3.22.16	.27
4.3.16	.16
4.13.16	.48
4.14.16	.51
4.21.16	.59
4.22.16	.53
4.24.16	.14
4.27.16	.27
5.20.16	.28

<b>Date</b>	<b>Precipitation (Inches)</b>
5.21.16	.26
7.8.16	.30
7.9.16	.18